IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 05.01.2007

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice N.PAUL VASANTHAKUMAR

Writ Petition No.48771 of 2006
& M.P. Nos. 2 & 3 of 2006

1.R.Sowmithri
2.Rajendra Munje
3.R.Usha
4.Y.S.Anand .. Petitioners

Vs.

1.The Government of Tamil Nadu,
rep. by its Secretary,
Housing and Urban Development
Department, Chennai-600 009.

2.Chennai Metropolitan Development Authority,
rep. by its member-Secretary,
Thaalamuthu Natarajan Maaligai,
Chennai-600 008.

3.Corporation of Chennai,
rep. by its Commissioner,
Chennai-600 003.

4.S.Elumalai

5.Anmol Shrusti Contractors and
Engineers Private Limited,
rep. by its Managing Director,
Alok Kumar (building Contractor),
102, Lattice Bridge Road,
Adyar, Chennai-600 020. .. Respondents

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Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus as stated therein.

For Petitioners : Mr.T.Gowthaman
For 1st Respondent : Mr.K.Elango,
Special Government Pleader
For 2nd respondent : Mr.J.Ravindran
For 3rd respondent : Mr.V.Bharathidasan
For respondents 4 & 5 : No appearance

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ORDER

(Order of the Court was delivered by P. SATHASIVAM, J.)

The petitioners, numbering four, aggrieved by the notice issued by the second respondent dated 25.07.2002 followed by letter dated 05.12.2006, have filed the above writ petition to quash the same and prayed for direction to the respondents to forthwith refer the properties of the petitioners herein viz., Flat No.B2 (first floor), Flat No.B1 (ground floor), flat No.A2 (first floor) and flat No.A1 (ground floor) at door No.20, Ranjith Road, Kotturpuram, Chennai-600 085 to the monitoring committee constituted as per the directions of the order of the first Division Bench of this Court dated 23.08.2006 and made in the batch of writ petitions in W.P.No.18898 of 2000 etc.

2. Pursuant to our direction, the learned counsel appearing for the third respondent-Corporation of Chennai submitted that one Elumalai, the fourth respondent herein, who is the owner of the premises at door No.20, Plot No.17C, Ranjith Road, Kotturpuram, Chennai-600 085, has obtained a sanctioned plan vide PPA/5196/01, BA/204/02, dated 18.01.2002 from the Corporation of Chennai for the proposed construction of residential building with basement, ground and first floor at the above mentioned location. It is further stated that the owner has deviated the construction against the sanctioned plan and also made unauthorised construction of three floors. According to the Corporation of Chennai, the building is now having stilt + 4 floors. When the construction was in progress, the Corporation of Chennai has served notice under Section 256 (1) and (2) of MCMC Act vide notice No.3013 dated 05.10.2002. It is also brought to our notice that the owner viz., the fourth respondent, has applied for regularisation under the scheme. Inasmuch as the petitioners are the owners of ground and first floor, for which the land owner has obtained proper permission from the Corporation of Chennai, we are of the view that no action need be taken against them.

3. The statement of the counsel appearing for the third respondent-Corporation of Chennai, is hereby recorded. In those circumstances, it is made clear that no action need be taken against the petitioners in view of the fact that there is an approved plan for construction of building in so far as the ground + first floor in the premises in question.

4. With the above observation, the writ petition is closed. No costs. Consequently, M.P. Nos. 2 and 3 of 2006 are also closed.

raa

Sd/-
Assistant Registrar

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Sub Assistant Registrar.

To

1.The Secretary,
Housing and Urban Development
Department, Chennai-600 009.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
Thaalamuthu Natarajan Maaligai,
Chennai-600 008.

3. The Commissioner,
Corporation of Chennai,
Chennai-600 003.

+ One cc to M/s G. Arul Murugan Advocate SR 1734.

+ One cc to M/s V. Bharathidasan Advocate SR 1289.

AVM(co)
sg 12/1/07

W.P.No.48771 of 2006

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